

# JUDICIAL COUNCIL MEETING

## Minutes

Monday, February 26th, 2007

Matheson Courthouse

Salt Lake City, Utah

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*Chief Justice Christine M. Durham, Presiding*

### **ATTENDEES:**

Chief Justice Christine Durham  
Hon. James Davis  
Hon. Ronald Nehring  
Hon. Gary D. Stott  
Hon. Michael Lyon  
Hon. Robert Hilder  
Hon. Mark Andrus  
Hon. William Barrett  
Hon. Michael Kwan  
Scott Sabey, esq.  
Hon. Hans Chamberlain  
Hon. Jody Petry

### **STAFF PRESENT:**

Daniel J. Becker  
Myron K. March  
Rick Schwermer  
Tim Shea  
Ray Wahl  
Holly Frischknecht  
Brent Johnson

### **ABSENT:**

Hon. Rand Beacham  
Hon. Kevin Nelson

## **1. WELCOME AND APPROVAL OF MINUTES:**

Chief Justice Durham welcomed everyone to the Council meeting and excused Judge Rand Beacham who is in the middle of a trial. The minutes were reviewed and the following motion was made.

**Motion:** Judge Chamberlain motioned to approve the minutes, Judge Barrett seconded the motion, the motion passed unanimously.

## **2. CHAIR'S REPORT**

Chief Justice Durham reported that most of the items that should be reported involves the legislative updates that Mr. Becker will cover.

## **3. ADMINISTRATOR'S REPORT**

Mr. Becker reported the following items:

-The Executive Appropriation's Committee has met twice. Judicial salaries will be raised by 10%. Employees will receive a 3.5% COLA with a merit increase for approximately half of the

employees. An increase in judicial retirement was also appropriated. Three law clerks will be funded. Although this is not the seven law clerks the Council requested, this is the largest number of law clerks the courts have received at one time. The lease and contract request was approved and the GAL request was reduced by half, but approved. The security officer position and data processing request was approved. The St. George Courthouse will also be funded. There will be one million dollars of ongoing money appropriated for expanding drug courts, the courts will receive \$130,000 from that amount. There will also be one million dollars in one time funding available for drug courts. Although it had not been requested, a juvenile mental health court in 1<sup>st</sup> District has received funding

The juvenile court judge and housekeeping bill are still being considered. The case management coordinator request does not look like it will be funded.

Two days remain in the 2007 session, but up to this point the majority of the court's requests have been funded and the judiciary as a whole has enjoyed a supportive legislative session. Mr. Becker indicated this is largely due to the efforts of Chief Justice Durham, staff and judges who have made contact with representatives and encouraged good relationships with legislators.

Mr. Becker reported that many states are facing legislation similar to the South Dakota jail for judges initiative that would greatly inhibit the independence of the judiciary. Mr. Becker indicated that Utah will continue to follow these efforts and national organizations are getting involved to help courts address these attacks.

Mr. Becker indicated that Senator Butters' reported his bill creating a task force on judicial retention to evaluate the voter information pamphlet will focus only on disseminating clear information to the public. The courts will work closely with the legislature on this effort and have judicial representation on the newly formed committee.

-Interviews for the District Court Administrator position will take place on Friday, March 2nd. Eight individuals will be interviewed. Mr. Becker reported there are very strong candidates interested in the position.

-The Courts have received \$198,000 in grant funds from CCJJ to apply to juvenile court programs.

-John Day, the 4<sup>th</sup> District Juvenile Court Administrator, will be retiring in April after more than 30 years of service to the courts. The advertisement for his position has gone out.

-The Governor has appointed Commissioner Doug Thomas, formerly of the 2<sup>nd</sup> District, to be the Judge in the 7<sup>th</sup> District. The Senate will vote on this confirmation shortly.

#### **4. REPORTS:**

##### **Management Committee: (Chief Justice Durham)**

Chief Justice Durham reported that the Management Committee created a list of members to be invited to participate on the new Probate Committee. The Management Committee also discussed the presiding judge rule, and will continue to do so at their next meeting. The Committee also discussed the Judicial Performance Committee that is scheduled to sunset. The

Management Committee will address this issue further in order to coordinate the work between the new legislative committee that will evaluate the voter information pamphlet and the Judicial Performance Committee.

**Bar Report: (Scott Sabey)**

Mr. Sabey indicated that the Bar is working with the ABA to begin organizing efforts to combat the jail for judges initiatives going on around the country. With the Bar Commission meetings taking place next week in St. George, the Bar will be meeting with Southern Utah Bar Association (SUBA) for lunch on Thursday. Mr. Sabey extended an invitation to Council members to attend this lunch with the SUBA. If any Council members would like to attend, they should contact Mr. Sabey.

**Liaison Report: (Justice Ronald Nehring)**

Justice Nehring indicated that the Liaison Committee dealt with less contentious bills than it as addressed in previous years. Mr. Schwermer will update the Council on individual bills during his legislative update.

**Policy and Planning:(Judge Gary Stott)**

Judge Lyon reported that the Policy and Planning Committee discussed the amendments to Rule 4-510. The Committee also continued their work on guardianship and conservatorship. A presentation will be given to the Council on this topic in the next few months.

**5. AMENDMENTS TO RULE 4-510: (Tim Shea, Kathy Elton)**

Mr. Shea indicated that the ADR Committee recommended that Rule 4-510 be amended. The Policy and Planning Committee approved the recommendations after the Rule had gone out for public comment. Mr. Shea reviewed the changes that would modify the training and experience necessary to qualify for the Utah State Roster of ADR Providers and to serve as a provider in divorce mediation. The amendments also provides for sanctions other than removal from the roster. The Uniform Mediation Act is added to the required reading for qualified training programs. The Judicial Council discussed the Rule changes and asked Ms. Elton questions about the recommendations.

**Motion:** Judge Lyon motioned to approve the recommendations to Rule 4-510. Judge Chamberlain seconded the motion, the motion passed unanimously.

**6. TOOELE COURTHOUSE NAMING: (Dan Becker)**

Mr. Becker indicated that the Tooele County Commission has requested that the new Tooele Courthouse be named after former Chief Justice Gordon R. Hall. The Management Committee supports this request. The State Building Board has oversight of the naming of a public building but have indicated they will consider the recommendation of the Judicial Council when naming courthouses.

**Motion:** Judge Lyon motioned that the Council formally request the Building Board consider naming the Tooele Courthouse the Gordon R. Hall Courthouse, the motion was seconded by

Judge Barrett, the motion passed unanimously.

Chief Justice Durham indicated that Chief Justice Hall served as Chief during very reformatory years for the court system and the naming of this courthouse would be a fitting honor since Chief Justice Hall is also from Tooele.

**7. COURT COMMISSIONER APPROVAL: (Dan Becker)**

Mr. Becker indicated that Doug Thomas, the judicial nominee for the 7<sup>th</sup> District position, is currently a Commissioner in the 2<sup>nd</sup> District. The 2<sup>nd</sup> District Court has requested that, per Rule, the Council authorize them to proceed with hiring another Commissioner.

**Motion:** Judge Davis motioned to approve that the 2<sup>nd</sup> District have the power to select a new Commissioner. The motion was seconded and passed unanimously.

Judge Lyon indicated that Commissioner Thomas will be a great asset to the community and will prove to be an excellent judge and he has served as a very effective Commissioner.

**8. CERTIFICATION OF MUNICIPAL JUSTICE COURT JUDGES: (Tim Shea)**

**Motion:** Judge Hilder motioned to move into executive session to discuss the certification of municipal justice court judges. The motion was seconded and approved.

**Motion:** A motion was made to come out of executive session. The motion was seconded and passed unanimously.

**9. LEGISLATIVE UPDATE: (Rick Schwermer)**

Mr. Schwermer reviewed the background and status of Senator Buttars' bill that will now allow for three judges, jointly selected by legislative leadership and the Judicial Council, to serve on the voter retention task force.

Mr. Schwermer reported on the following bills the courts are following:

-Mr. Schwermer indicated that the Court's housekeeping bill has passed the Senate and is waiting for approval in the House. This bill includes funding for two child welfare mediators.

-The visitation mediation expansion bill has a large fiscal note and it could be tied to the child support guidelines. It is not known if the bill will be funded.

-The House and Senate has now come to an agreement about the lobbying bill. The bill would require anyone testifying before the legislature to become a registered lobbyist.

-The unlawful retainer bill has passed out of the Senate. The bill does not allow an exception for domestic violence victims to stay in their homes.

-The status of the bill requesting the case management positions is unknown at this time.

- The bill requesting the juvenile judge could still be passed, but there is now a limited amount of money left for ongoing funding.

-There has been \$9 million of ongoing funding appropriated for DORA. With the Human Services allocation, the courts will get \$80,600 for two clerk positions. This money will allow continued screening's, but there will be a set amount of DORA beds in facilities around the state

Mr. Schwermer attributed the judicial compensation request passing to a combination of money available this year, Chief Justice Durham's State of the Judiciary, and Scott Anderson's influence with his lobbyists.

Chief Justice Durham thanked Mr. Schwermer, Mr. Johnson and all staff who have worked so hard during the legislative session.

## **10. ADJOURN**

**Motion:** A motion was made to adjourn the meeting, the motion was seconded and passed unanimously.